Before the

Federal Communications Commission

Washington, DC 20554

In the Matter of:	)	
	)	
The Effect of Foreign Mobile Termination Rates on US Customers	)	IB Docket No 04-398
	)	
	)	

Digicel USA Inc. comments on Notice of Enquiry

About Digicel USA

Digicel USA is a corporation organised under the laws of Delaware and is part of the Digicel mobile group operating in the Caribbean region, currently in seven different territories: Aruba, Barbados, Cayman Islands, Grenada, Jamaica, St Lucia and St Vincent & the Grenadines. Digicel is the fastest growing wireless carrier and the largest GSM mobile operator in the region, and has been instrumental in making market liberalisation in the Caribbean a success, bringing mobile communications to many people who previously had never owned a phone. Many of Digicel's management team also have significant experience working within the mobile and wider telecommunications sector outside the Caribbean region, particularly in Europe.

Summary of comments

Digicel acknowledges the Commission's concern regarding the extent to which foreign mobile termination charges might affect US consumers. However, Digicel believes that the adoption of the Calling Party Pays (CPP) regime in general and the level of mobile termination charges in particular do not have a significant adverse impact on US consumers. Indeed, in respect of developing countries especially, mobile termination charges are helping US consumers to connect with more people in those countries than ever before for both family and business purposes.

Digicel believes that, from a US consumer view, the main concern is likely to be the very high retail prices and margins being charged by US carriers for overseas calls. Given these high prices and the large margins available, there is no discernible relationship between the mobile termination charges made by overseas operators and the retail prices paid by US consumers. Any evaluation of US carrier prices for calls to overseas mobiles should use the full retail price and not only the "mobile surcharge" element.

Whether a country adopts a Receiving Party Pays (RPP) pricing regime or a CPP pricing regime is a matter of telecommunications policy for the Government in that individual country. Digicel firmly favours the CPP approach over the RPP pricing regime because of the benefits of this approach, particularly in helping to ensure faster and greater mobile penetration levels. While this is a particularly important factor in the Caribbean region where Digicel operates, it also generates substantial benefits for the many US consumers who communicate with or have links to the Caribbean. Digicel supports the inclusion of a network externality factor when calculating the appropriate costs of mobile call termination and believes that higher externality mark-ups are justified where there are lower mobile penetration levels.

However, since liberalisation of telecommunications markets is now widespread and local regulatory authorities in most countries have clear powers to enforce cost-oriented interconnection charges, including mobile termination charges, Digicel would contend that the Commission's concerns about the level of mobile termination charges can and should be appropriately managed through competition and by the local regulatory authorities.

Interests of US consumers

Digicel acknowledges the role of the Commission in addressing issues that affect the interests of US carriers and US consumers. However, Digicel would anticipate that, as regards the issue of mobile termination charges, the Commission's main priority is to protect the interests of US consumers. Digicel's strong belief is that the adoption of the CPP regime in general and the level of mobile termination charges in particular do not have any significant adverse impact on US consumers. It is worthy of note that the Commission's own Notice of Enquiry states that "No comments from US consumers or consumer groups identified mobile termination rates as a concern", despite a "mobile surcharge" clearly being advertised by US carriers in most cases.

Digicel believes that, from a US consumer view, the main concern should be the retail prices and margins being charged by US carriers for overseas calls. Digicel's own summary review of these prices and margins indicates that very high prices are being charged and very large margins are being generated which bear no relation to, and are not dependent on, the mobile termination charges made by overseas terminating mobile operators. Although it is difficult to make detailed pricing comparisons, given the plethora of different pricing packages and access charges, Digicel's analysis (see attached Appendix) indicates that the retail price of a call from the US to a Jamaican mobile ranges from USD $0.43 to $4.70. This compares with the average termination charge for a call to a Jamaican mobile of just under USD $0.15 (this figure including both the termination charge and the international settlement charge). **It is worthy of note that the Digicel (Jamaica) retail price for an international call to any overseas destination (ie. including many countries with allegedly "excessive" mobile termination charges) is the equivalent of only USD $0.29.**

Please note that in making these comparisons Digicel has used the full retail price for the call and not looked in isolation at the "mobile surcharge" typically included by US carriers on calls to overseas mobiles. Digicel will not comment on the retail pricing practice of including a "mobile surcharge" but only notes that this "mobile surcharge" is not related to or justified by the existence of mobile termination charges in countries adopting the CPP pricing regime, particularly where there are very significant margins available from already high "basic" retail prices for international calls. Digicel believes therefore that, to the extent that the Commission intends to conduct further investigations into the issue of the price of calls to overseas mobiles, it should examine the overall retail price of such calls and not simply the "mobile surcharge" element.

Digicel would also question the relevance and accuracy of studies produced by Worldcom and by AT&T quoted in the Notice of Enquiry. No details other than the top line results are given by Worldcom of its study which claims to estimate the impact of mobile surcharges on US customers. However, given the complexity of calculating LRIC based pricing and the legal and economic debate surrounding the correct means of conducting such calculations, Digicel would be very surprised if Worldcom's calculations included a detailed comparison of mobile settlement rates with the <u>relevant</u> LRIC cost studies for mobile termination (ie. the appropriate LRIC cost for each operator in each country, assuming that such a cost study exists at all). The AT&T study is a reworking of the Commission's own earlier TCP study but with significant modifications, notably including international transport elements and the use as a baseline price of mobile on-net call prices. Since it is a well known retail pricing approach (in both mobile and fixed communications) to apply significant discounts to on-net calls (thus generating "member get member" activity and enhanced loyalty), it is inappropriate to use the on-net price as a baseline for a TCP calculation. In any case, the relevance of either study in measuring the impact on US consumers must be in doubt when one considers the very high retail prices being charged and the very high margins being generated from US calls to overseas mobiles.

Benefits of the CPP pricing regime

It seems clear that whether a country adopts an RPP pricing regime or a CPP pricing regime is a matter of telecommunications policy for the Government in that individual country. There are numerous factors involved in making a choice between the two different pricing regimes, of which Digicel would note in particular the following:

- There is clear evidence to demonstrate that mobile penetration and the use of mobile phones increases significantly more quickly in countries which adopt a CPP approach;
- In a CPP regime, the cost of the call is borne by the person who chooses to initiate the call, ie. there is clear link between informed choice / action and cost; and
- The utility of mobile phones can be significantly reduced in an RPP environment since users often choose to use their mobiles mainly or only for outgoing calls, wishing to avoid paying the costs of receiving calls from unknown callers.

In the environment of the Caribbean region where Digicel operates, ensuring faster and greater mobile penetration levels (inter alia through the adoption of a CPP approach) is critical to providing the widest possible access among the population to communications services, since in many areas fixed line communications are poor, non-existent or simply not affordable for the majority of the population. Without this greater mobile penetration many people in the Caribbean would be without communications links, both among their own communities and externally, including links to consumers in the US. Given this highly beneficial impact for the Caribbean region (and for those people, including US consumers, who communicate with people in the Caribbean), Digicel firmly favours the CPP approach over the RPP pricing regime.

Charges and costs

Digicel notes the Commission's concern regarding whether mobile termination charges are cost-oriented and its interest in the different approaches to calculating cost-oriented prices. There is clearly a significant amount of existing material on this issue from academics and arising as a result of regulatory investigations and enquiries. Digicel does not intend in this response to seek to add to or summarise its views on that material but would note that there are very many factors which could justify a difference in mobile termination charge levels between different operators in the same country and between operators in different countries, including population density, topography, mobile coverage, mobile penetration, mobile technology used, and maturity of mobile network.

On the matter of network externalities, ie. whether it would be appropriate for countries with low mobile penetration rates to charge above-cost mobile termination rates as part of a policy to promote the build-out of mobile networks, Digicel supports the view espoused by Ofcom in the UK. It is important to recognise that the externality mark-up is not an additional layer of profitability for mobile operators, as is sometimes implied, but is a cost-allocation mechanism whereby a larger proportion of legitimate common costs incurred by a mobile network can be allocated to the call termination service. There are very substantial benefits from allowing an externality mark-up and to justify higher externality mark-ups where there are lower penetration levels. In particular, these mark-ups provide support for a faster sustained increase in mobile penetration levels, increasing the number of connected consumers and bringing benefits to all telephone users and market participants, including US consumers.

Regulation in liberalised markets

Market liberalisation of telecommunications and the introduction of competition, particularly in the mobile sector, is now very widespread throughout the world. As a result, it should be noted that in most countries, including the jurisdictions in which Digicel currently operates, the telecommunications legislation (or regulations) very clearly states both that interconnection charges (including mobile termination charges) must be cost-oriented and also provides powers to the appropriate local regulatory authority to investigate and ensure that charges are cost-oriented. Where such legislation and regulatory powers exist, Digicel would contend that the Commission's concerns about the level of mobile termination charges can and should be appropriately managed by the local regulatory authorities. As the Commission itself notes, there have been many instances in many different countries where regulatory authorities have investigated and intervened in the matter of mobile call termination charges. However, it should not be assumed that, simply because a local regulator has chosen not to intervene in this matter, there must be an outstanding problem requiring outside intervention.

Respectfully submitted

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APPENDIX:

ANALYSIS OF US CARRIER PRICES FOR CALLS TO JAMAICA MOBILES

US Retail Carriers

Service Plan	Access Charges	Basic Charges	Additional Mobile Termination Charges	Total Retail Charge to Mobile (A)	Mobile Settlement Rate (B)	Margins A - B	Margins %
	US$/Month	*US$/Minute*	*US$/Minute*	*US$/Minute*	*US$/Minute*	*US$/Minute*	
AT&T Plan I	1.00	0.38	0.07	0.4500	0.148	0.3020	67.1%
AT&T Plan II	0.00	0.4	0.07	0.4700	0.148	0.3220	68.5%
AT&T Basic Calling Plan	0.00	3.98	0.07	4.0500	0.148	3.9020	96.3%
AT&T Wireless	0.00	2.85	0.07	2.9200	0.148	2.7720	94.9%
Verizon Plan II	4.00	0.44	0.10	0.5400	0.148	0.3920	72.6%
Verizon Plan II	0.95	1.36	0.10	1.4600	0.148	1.3120	89.9%
Verizon Basic Calling Plan	0.00	3.26	0.10	3.3600	0.148	3.2120	95.6%
Sprint	3.00	0.61	0.09	0.7000	0.148	0.5520	78.9%
Sprint Causal Caller ($3.99/call surcharge)*	0.00	4.619	0.09	4.7090	0.148	4.5610	96.9%
MCI (8.6% USF& 1.4% CCR)	4.00	0.35	0.11	0.4600	0.148	0.3120	67.8%
MCI: No Account ($5.5/call surcharge)*	0.00	4.21	0.11	4.3200	0.148	4.1720	96.6%
SBC Communications 1	3.9900	0.3500	0.08	0.4300	0.148	0.2820	65.6%
SBC Communications 2	2.9500	0.4500	0.08	0.5300	0.148	0.3820	72.1%
Qwest	3.00	0.4265	0.09	0.5165	0.148	0.3685	71.3%
Qwest: 2PM - 3AM	0.00	1.78	0.00	1.7800	0.148	1.6320	91.7%
Qwest: 3AM - 2PM	0.00	1.46	0.00	1.4600	0.148	1.3120	89.9%
Alltel	3.00	0.60	0.00	0.6000	0.148	0.4520	75.3%
DFT Communications	0.00	0.82	0.00	0.8200	0.148	0.6720	82.0%
Acceris Communications	2.95	0.48	0.00	0.4800	0.148	0.3320	69.2%
BellSouth: Int'l Fixed Rate Plan	2.95	0.54	0.09	0.6300	0.148	0.4820	76.5%
BellSouth: Country Select Plan	4.95	0.49	0.09	0.5800	0.148	0.4320	74.5%
BellSouth: Int'l Advantage Plan	9.95	0.49	0.09	0.5800	0.148	0.4320	74.5%
BellSouth: Basic Rate Peak	0.00	2.71	0.09	2.8000	0.148	2.6520	94.7%
BellSouth: Basic Rate Off Peak	0.00	2.23	0.09	2.3200	0.148	2.1720	93.6%
VarTec Telecom	0.00	0.89	>0	0.8900	0.148	0.7420	>83.4%
IDT Corporation: Basic Int'l	0.00	0.62	0	0.6240	0.148	0.4760	76.3%
Alltel: Calling Cards	0.00	2.00	0	2.0000	0.148	1.8520	92.6%
DFT Communications: Calling Cards	0.00	0.78	0	0.7800	0.148	0.6320	81.0%
MCI: Calling Cards	0.00	0.65	0.11	0.7600	0.148	0.6120	80.5%
Verizon: Calling Cards	0.00	3.26	0	3.2600	0.148	3.1120	95.5%

US Retail Carriers

Service Plan	Access Charges	Basic Charges	Additional Mobile Termination Charges	Total Retail Charge to Mobile (A)	Mobile Settlement Rate (B)	Margins A - B	Margins %
Cingular (Mobile)	0.00	1.49	0	1.4900	0.148	1.3420	90.1%
T Mobile	0.00	0.99	0	0.9900	0.148	0.8420	85.1%
Nextel Communications (Mobile)	0.00	1.49	0	1.4900	0.148	1.3420	90.1%

AT&T Plan II requires a minimum of US$9.95 per month.
* Assumed that the average length of a call is 10 minutes.